

PUBLIC PROSECUTOR

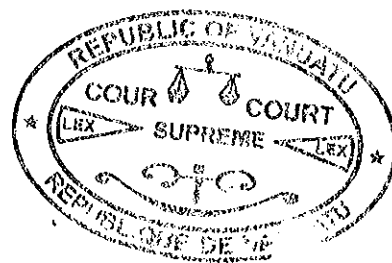
V

STEVEN SEULE

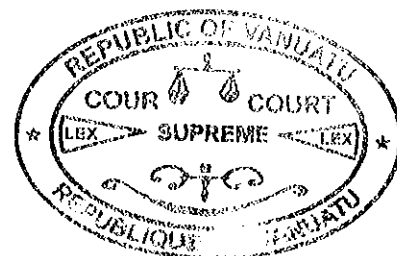
Hearing: 17 October 2011
Before: Justice Robert Spear
Appearances: Tabisa Harrison for the State
Andrew Bal for the Accused

SENTENCE

1. Steven Seule you are for sentence on 1 representative charge of committing unlawful sexual intercourse. This is a charge to which you pleaded guilty on 6 September 2011.
2. A summary of facts is been presented by the public prosecutor and that is repeated in the prosecution sentencing submissions. It is necessary for me to make some comment about that right from the outset. You were originally charged with 2 counts, the first is of rape, which is sexual intercourse without consent and has an alternative with unlawful sexual that is having sexual intercourse with a girl under 17 years of age. However, on 6 September 2011 you entered a plea of guilty to having sexual intercourse but not guilty to rape. The public prosecutor who appeared that day indicated that the prosecution accepted your plea of guilty to unlawful sexual intercourse as covering all outstanding criminal matters and that it did not wish to present or pursue count 1 the charge of rape. You are discharged that day on count 1. That left you for sentence solely on the charge of unlawful sexual intercourse.
3. The summary of facts, however, still talks about force used to overpower the complainant on a number of occasions and is indeed a summary of facts for rape rather than unlawful sexual intercourse. It would be quite wrong for this Court to accept the violence and threats of violence and the assertions that the sexual intercourse took place without consent and as being aggravating features to the charge of unlawful sexual intercourse. That would allow the prosecution to have those factors addressed in a back door manner rather than where they should properly have been and that is as part and parcel of the charge of rape.



4. So those matters cannot be aggravating features to this offending. The proper factual basis for me to sentence you is that you had sexual intercourse casually with a 13 year old girl in your village at a time when you were 15 years of age. Furthermore that this happened on 2 or 3 occasions. What aggravates this offending is the young age of the girl concerned and the fact that she was not in a relationship with you. This offence is one designed to protect the young and the vulnerable. It is designed to protect if necessary young girls from themselves. In this case you were the older of the two, By 2 years and you should have exercised restraint. You should not have taken advantage of her vulnerable state. So that is the criminality of your offending and that is the basis upon which you are to be sentenced.
5. You are now 16 years of age. The probation officer says that you are considered to be a good young man in all other respects and someone whom your family hopes will take a leading role in the family business and generally in the family. This is not the best start you could make to becoming a leader of your community or within your family. It is tenth amount to bullying, it is tenth amount to using your superior force without consideration of how that might affect other people. In all respects this appears to have been a somewhat careless activity that you indulged in thinking only of yourself and not of the young girl concerned.
6. Be that at it may, at 16 years of age I accept the assessment of the probation officer that you are remorseful that you understand how serious your actions were and that this Court is unlikely to see you again. Of course you now have a criminal record and so if you ever came back before the Court this conviction would be available for that Judge to take account of. So this will follow you for the rest of your life. It is up to you to show that you have learnt from it and that you have moved on from it. That is the challenge for you. I have identified the aggravating features to this offending. I need to comment a little more about the mitigating circumstances here and in particular the fact that you co-operated fully with the police. You entered your plea of guilty at the first reasonable opportunity and you are prepared to undertake a custom reconciliation ceremony with the victim and here family. That all stands to your credit and is the reason why you are not going to prison. If I do not consider that you were remorseful or understood exactly how serious this offending was then I would have had to consider a sentence that was more punitive in its nature than what I propose to impose.
7. Mr Bal applied for you to be discharged without conviction. I am not prepared to deal with this case in that way. It is too serious and this offence simply too prevalent. It is committed too often in the community. The seriousness of the offending completely outweighs your personal considerations and so it is important that there is a conviction and it is important that there is a response by this Court to what you have done. I propose to deal with you by a sentence of community work and supervision. I can tell you now that if you are convicted of rape along the lines of the summary of facts presented by the prosecution I would have sent you to prison today for about 2 and half years. So you had in my view most probably a somewhat lucky escape.



8. You are sentenced to carry out 200 hours community work. You are placed under supervision for a term of 1 year with these special conditions:-
- 1) That you undertake the niufala rod programme as directed as your probation officer;
 - 2) That you undertake a custom reconciliation ceremony as supervised by your probation officer and any chiefs called on by the probation officer for support;
 - 3) You would also comply with any agreement reached at that reconciliation ceremony as to any response required from you.
9. If you do not accept this sentence you have 14 days to appeal it.

BY THE COURT

